

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No. 2472 of 2019(O&M)

Date of decision: 11.4.2019

Vinod Kumar Sharma

.....Petitioner

VERSUS

Bhuwanshi Punia

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vivek Singla, Advocate for the petitioner.

REKHA MITTAL, J.

The present petition directs challenge against concurrent findings of fact whereby eviction application filed by the respondent in respect of plot No.467, Industrial Area, Phase – I, Panchkula for non-payment of rent was allowed by the Rent Controller, Panchkula vide order dated 25.07.2018 and appeal preferred by the petitioner/tenant was dismissed by the Appellate Authority, Panchkula vide judgment dated 11.03.2019.

Indisputably, the tenancy in respect of premises in question was created vide agreement dated 31.07.2014 w.e.f. 01.06.2015 and the petitioner was inducted as a tenant in the demised premises by Mrs. Suman who died on 25.07.2015. The application for eviction was filed by respondent- Bhuwanshi Punia claiming herself to be daughter of late Mrs. Suman on the ground that the petitioner is in arrears of rent w.e.f. June 2015 onwards.

The petitioner (respondent therein) admitted that Mrs. Suman was owner and landlady of plot No.467, Industrial Area, Phase I, Panchkula who rented out the entire premises except one office in its front portion at first floor to the petitioner on monthly rent of Rs.40,000/-. At the time of taking the premises on rent, the petitioner issued cheque bearing No.986186 dated 22.05.2014 of Rs.40,000/- drawn on YES Bank Ltd. as security. However, he denied relationship of landlord and tenant between the parties.

With regard to payment of rent, it is averred that the petitioner had been paying rent regularly upto July 2015 to Mrs. Suman. Suman died on 25th July 2015 and after her death, Dharam Pal father of Suman started receiving rent and told the petitioner that he had stepped into the shoes of her daughter as he had purchased the property in the name of her daughter and after her death he will become owner of said plot. It is further averred that the petitioner paid rent to Sh. Dharam Pal till December 2015.

Counsel for the petitioner has assailed findings of the Courts with regard to relationship of landlord and tenant between the parties and the petitioner being in arrears of rent after death of Suman in July 2015. It is argued with vehemence that the respondent failed to adduce sufficient much less cogent evidence to establish that she is owner of the property in question. It is further argued the respondent produced document Ex.P2 with regard to transfer of aforesaid industrial plot in her name by Haryana State Industrial and Infrastructure Development Corporation (in short 'HSIIDC') but the said document was objected to by counsel for the petitioner before the Rent Controller. It is further argued that as per the

settled position in law, mere marking a document as an exhibit would not dispense with obligation to prove it in accordance with law. In support of his contention, he has relied upon judgments of Hon'ble the Supreme Court **Sait Tarajee Khimchand and others Vs. Yelamarti Satyam and others, AIR 1971 SC 1865** and **Narbada Devi Gupta Vs. Birendra Kumar Jaiswal and another, 2003(4) RCR (Civil) 683.**

Another submission made by counsel is that since the respondent cannot derive any advantage to her contention from the document Ex.P2, she has failed to prove herself to be owner of the property in question and as such she is not competent to maintain an application for eviction under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (in short 'the Act'). For this purpose, reference has been made to judgment of Hon'ble the Supreme Court **Sheela Vs. Firm Prahlad Rai Prem Prakash, 2002 (1) RCR (Rent) 351.** Further reference has been made to judgment of the Madhya Pradesh High Court (Jabalpur Bench) **Manisha Lalwani Vs. Dr. D.V. Paul, 2007(1) RCR (Rent) 478.** Counsel for the petitioner would argue that the provisions of Section 12 of the M.P. Accommodation Control Act, 1961 (in short '1961 Act') are identical to the provisions of Section 13 of the Act, therefore, the cited judgments have bearing on the case at hand.

I have heard counsel for the petitioner, perused the paper-book and copies of documents supplied during the course of hearing.

Counsel for the petitioner, in response to a query, is not in a position to point out any materials on record to show that the petitioner ever challenged the respondent to be daughter of Mrs. Suman, admittedly,

the landlady and owner of the property in question. The petitioner has clearly admitted that tenancy was created by Mrs. Suman and he had been paying rent to his landlady.

Section 2(c) of the Act defines “landlord” and reads thus:-

"landlord" means any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf, or for the benefit, of any other person, or as a trustee, guardian; receiver, executor or administrator for any other person, and includes a tenant who sublets any building or rented land in the manner hereinafter provided, and every person from time to time deriving title under a landlord”

The last words ‘every person from time to time deriving title under a landlord’, in absence of any challenge to relationship of respondent with Mrs. Suman would certainly cover the respondent within the purview and definition of landlord under Section 2(c) of the Act irrespective of whether the respondent is able to prove the document Ex.P2 in accordance with law or otherwise.

Counsel for the petitioner has relied upon the judgment of Hon’ble the Supreme Court in **Sheela’s case** (supra) and Madhya Pradesh High Court in **Manisha Lalwani’s case** (supra) wherein the provisions of Section 12 of the 1961 Act are the subject matter of discussion and decision. Counsel for the petitioner is guilty of mis-stating a fact that provisions of Section 12 of the 1961 Act are exactly similar to that of Section 13 of the Act. In the Act of 1961, Section 12 (1) (f) envisages that

if the accommodation let for non-residential purposes is required *bonafide* by the landlord for the purpose of continuing or starting his business or that of any of his major sons or unmarried daughters if he is the owner thereof or for any person for whose benefit the accommodation is held and that the landlord, or such person has no other reasonable non-residential accommodation of his own in his occupation in the city or town concerned. There is no such provision in the Act that says that in addition to being a landlord, the eviction petitioner must be owner of the non-residential premises in order to seek eviction on the ground of bona fide requirement of the landlord or his major sons or unmarried daughters or any person for whose benefit the accommodation is held as has been provided in Section 12 (1) (f) of the 1961 Act. Keeping in view the provisions of 1961 Act, the question of ownership of the landlord was the subject matter of controversy in the judgments pertaining to the 1961 Act, relied upon by the petitioner. In the given circumstances, the petitioner cannot derive any advantage to his contention from the judgments in **Sheela's case** (supra) and **Manisha Lalwani's case** (supra).

Both the Courts have consistently held that the petitioner has failed to prove that he had paid rent after death of Mrs. Suman to Sh. Dharampal, father of the deceased. Counsel for the petitioner has not made any submissions to assail consistent findings of the Courts on the question of non-payment of rent by the petitioner. This apart, consistent findings of fact recorded by the Courts cannot be interfered unless they suffer from material irregularity or illegality, in exercise of limited revisional jurisdiction. In this context, reference can be made to judgment to Hon'ble

the Supreme Court **Hindustan Petroleum Corporation Ltd. Vs. Dilbahar Singh, 2014 (4) RCR (Civil) 162.**

In this view of the matter, I do not find any material irregularity much less illegality in the orders impugned, warranting intervention.

No other point has been raised.

For the foregoing reasons, finding no merit, petition fails and is accordingly dismissed in limine.

APRIL 11, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no